

UNITED STATES DISTRICT COURT
For the District of Massachusetts

| | |
|----------------------------------|---|
| ITV DIRECT, INC., |) |
| |) |
| Plaintiff, |) |
| |) |
| v. |) |
| |) |
| HEALTHY SOLUTIONS, LLC, ET. AL., |) |
| |) |
| Defendants. |) |
| |) |
| CAPPSEALS, INC., |) |
| |) |
| Plaintiff-in-Intervention |) |
| |) |
| v. |) |
| |) |
| HEALTHY SOLUTIONS, LLC., d/b/a |) |
| DIRECT BUSINESS CONCEPTS; ITV |) |
| DIRECT, INC. AND DIRECT |) |
| FULFILLMENT, LLC. |) |
| |) |
| Intervenor-Defendants. |) |
| |) |

C. A. No. 04-CV10421-JLT

AFFIDAVIT OF SCOTT A. SILVERMAN

1. My name is Scott A. Silverman, and I am an associate with the law firm of Gadsby Hannah LLP located in Boston, MA. I am counsel for the Plaintiff-in-Intervention, Cappseals, Inc. ("Cappseals"). I submit this Affidavit in support of Cappseals' Motion for Post Judgment Relief.

2. This Affidavit serves to place the attached documents before the court, and, to further attest, based upon personal knowledge, to the facts contained herein.

3. Attached as **Exhibit A** is a true and accurate copy of a letter I sent to counsel for ITV Direct, Inc. ("ITV Direct") and Direct Fulfillment, LLC ("Direct Fulfillment") (ITV Direct and Direct Fulfillment are collectively referred to herein as the "ITV Parties") requesting that

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they disclose whether they would comply with their payment obligations resulting from the judgment issued to Cappseals (the “Judgment”).


4. Attached as **Exhibit B** is a true and accurate copy of the July 27, 2005 “response” letter from counsel for the ITV Parties wherein they promise to provide a “proposal” that would to “address” the Judgment early this week. No such “proposal” has ever been made.

5. Attached as **Exhibit C** are true and accurate copies of purchase orders sent on November 21, 2003 to Healthy Solutions both identified as Purchase Order No. 1101. These purchase orders were produced by the ITV Parties and indicate that ITV Direct and Direct Marketing Concepts, Inc. were both “originators” of the request for the Product.

6. Attached as **Exhibit D** is a true and accurate copy of an Accounting Report produced by the ITV Parties reflecting their financial status as of June 30, 2004.

7. Attached as **Exhibit E** are true and accurate copies of the relevant pages from the transcript of Donald Barrett’s August 23, 2004 deposition.

Sworn to under the pains and penalties of perjury this 3rd day of August, 2005.



Scott A. Silverman

CERTIFICATE OF SERVICE

I hereby certify that true and accurate copies of the foregoing Affidavit of Scott A. Silverman with exhibits was served on the foregoing attorneys of record pursuant to Fed. R. Civ. P. 5 as follows:

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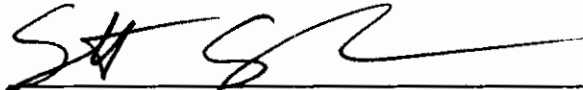
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DATED: August 3, 2005